
Subject: Program Abuse and Sanctions

Effective Date: June 1, 2006

Revised from: October 1, 2004

Policy: Document in KWIC any sanction imposed on a client. Contact the State WIC Office for assistance in documenting any sanction that extends beyond three (3) months.

The State WIC Agency determines uniform procedures and sanctions for the Local Agency or Clinic to apply when a WIC client or caregiver abuses the program. The Local Agency is responsible for tracking offenses and sanctioning clients. Sanctions are based on the severity of the abuse and may range from education and a warning letter for termination from the program for a period of one (1) month up to one (1) year and/or establishing a claim against the client, for the benefits the client received, for restitution or reimbursement to the WIC program.

When more than one abuse at a time is involved, the sanction shall be based on the more serious abuse.

If the abuse occurs more than 12 months after the last abuse, the Local Agency or Clinic shall process the abuse as a first offense. When more than three (3) abuses in a 12-month period occur, the Local Agency or Clinic, after consulting with the State WIC Office, shall apply the sanction based on the more serious abuse.

The Local Agency or Clinic, after consulting with the State WIC Office, shall disqualify the client for one year for:

1. claims of \$100 or more;
2. fraudulent dual participation; or
3. second or subsequent claim of any amount.

Any client or alternate caregiver who misrepresents or misrepresented circumstances in order to receive food benefits may be required to repay to the WIC Program the full case value of benefits the individual received improperly.

The State WIC Office may delegate to a Local Agency or Clinic, responsibility for initiating collection of client claims.

In those cases in which the State WIC Office, Local Agency or Clinic pursues a claim collection against a client who has been improperly issued benefits, the client **shall** be advised in writing of the reason(s) for the claim and the value of the improperly issued benefits that the individual is required to repay. Repayment of funds shall be made payable to KDHE-WIC and submitted to the State WIC Office. If full restitution is not made or a repayment schedule is not agreed to within 30 days of the client receiving the letter, the State WIC Office, Local Agency or Clinic shall take additional actions to collect the claim until the client has made full restitution or until the State WIC Office and client agree to a repayment schedule, unless the State WIC Office determines that further collections would not be cost effective.

The Local Agency or Clinic shall follow the State WIC Office established cost effective formula to apply when determining whether or not to pursue a reimbursement claim against a WIC client or the

client's caregiver when the client or the client's caregiver has abused the WIC program. The formula is as follows:

CLAIM VALUE	REIMBURSEMENT POLICY
For claims \geq \$500	The State WIC Agency may direct a Local Agency or Clinic to pursue a claim and if or when appropriate to do so, refer the claim for prosecution.
For claims \geq \$200 < \$500	The State WIC Agency may direct a Local Agency or Clinic to pursue a claim and may refer the claim for prosecution.
For claims < \$200	The State WIC Agency and/or Local Agency shall examine the collection costs involved and based on the costs, determine whether or not to pursue a claim.

In lieu of financial restitution, clients or parents or caregivers of infant or child clients for whom financial restitution would cause undue hardship, may provide restitution by performing in-kind services that the State WIC Office determines. Restitution **may not include** offsetting the claim against future program benefits, even if agreed to by the client or the parents or caretakers of infant or child clients.

The Local Agency or Clinic shall document the disposition of all client claims.

Reference: CFR §246.7 and §246.12

Procedure: When the State WIC Agency or Local Agency issues a demand for reimbursement letter, the letter shall contain:

1. The client's name;
2. date and description of the abuse;
3. non-discrimination and fair hearing clause;
4. correct procedure to follow, and
5. Local Agency signature, title and date.

The State WIC Office, Local Agency or Clinic shall advise the client of procedures to follow to obtain a fair hearing, pursuant to Federal Regulation §249.9, and that failure to pay may result in disqualification. In addition to establishing a claim, the State WIC Office shall determine whether disqualification is required by Federal Regulation §246.12(u)(2), which states that whenever the State WIC Office "assesses a claim of \$100 or more, assess a claim for dual participation, or assess a second or subsequent claim of any amount, the State Agency must terminate the client for one year." Exceptions to the mandatory disqualification, pursuant to Federal Regulation §246.12(u)(2)(ii), include:

1. Within 30 days of the client receiving the letter demanding repayment, the client or the client's caregiver makes full restitution or agrees to a repayment schedule; or
2. When the client is an infant, child, or under age 18, within 30 days of the client or the client's caregiver receiving the letter demanding repayment, the State WIC Office approves the designation of a proxy.

WIC clients shall receive at least a 15-day written notification of all terminations/disqualifications. The notice may be sent by certified mail or hand delivered and shall include:

1. The client's name;
3. date and description of the abuse;
4. non-discrimination and fair hearing clause;
5. correct procedure to follow for a fair hearing;
6. procedures for continuing benefits until the Hearing Officer reaches a decision; and
7. Local Agency signature, title and date.

Any notice of adverse action shall contain the following statement:

“If you disagree with a decision made by a WIC agency, you have a right to a fair hearing. Contact the local agency for procedures under which fair hearings are processed.”

Participants who appeal a WIC Program termination/disqualification within 15 days of the notification date will continue to receive WIC benefits until the hearing decision is made or the certification period expires, whichever comes first.

Before imposing a sanction, the Local Agency or Clinic shall consider potential hardship to the client and the impact on the client's nutrition and health status. The Local Agency or Clinic shall request guidance from the State WIC Agency regarding specific client hardship issues.

Program clients who engage in one or more of the following prohibited activities may be subject to either a warning or a sanction. The prohibited behaviors and warnings or sanctions the Local Agency shall impose on or apply to clients who engage in one or more of these prohibited acts include, but are not limited to, those behaviors listed in the chart that follows.

Program clients who engage in one or more of the following prohibited activities may be subject to **being terminated (suspended) from the program for not less than 30 days or more than one (1) year for the first offense**. Any notice shall be given to the client not less than 15 days prior to the sanction unless otherwise state.

Number of Incidences of Violation	TITLE OF OFFENSE	DESCRIPTION OF OFFENCE	SANCTION POLICY
1st	Abuse – Physical or Verbal	Physically or verbally abusing or threatening to physically abuse WIC or vendor staff. [An incidence of physical abuse of WIC or store staff/property should be reported to the police.]	2-month termination (suspension).
1st	Assessed Claim	Assessed claim for ≥\$100.00	One-year termination. [See also Reimbursement Policy]
1st	Dual Participation	Dual participation – enrolled in two WIC clinics or enrolled in both WIC and CSFP in the same month.	Immediate termination or disqualification from one of the programs with no notice.

Number of Incidences of Violation	TITLE OF OFFENSE	DESCRIPTION OF OFFENSE	SANCTION POLICY
1st	Dual Participation - Fraud	Dual participation in redeeming checks from two WIC clinics or participating in both WIC and CSFP in the same month and the individual engaged in fraud by purposely enrolling more than once in one program or enrolling in two programs.	Immediate termination or disqualification from both programs with no notice. [See also Dual Participation Policy]
1st	Eligibility Misrepresentation	Intentionally concealing, withholding, or misrepresenting information (i.e., identity, residency, income, family size, date of birth, health status) in order to obtain benefits.	2-month termination (suspension).
2nd			One-year (1) termination
1st	WIC Checks	Altering WIC checks (i.e., first day or last day to use, foods printed on the face of the WIC check and/or quantities). “	Two-month (2) termination (suspension).
2nd			One-year (1) termination.
1st	WIC Checks	Accepting cash or credit from a store in connection with a WIC transaction. “	Two-month (2) termination (suspension)
			One-year termination.
1st	WIC Checks	Selling, trading or giving away WIC checks.	Two-month termination (suspension).
1st	WIC Checks	Redeeming WIC checks that were reported as lost or stolen. “	Issue warning letter and counsel client on proper WIC check use, emphasizing prevention of the error.
2nd			Place client on monthly WIC check pickup.
3rd			Two-month (2) termination (suspension).

Number of Incidences of Violation	TITLE OF OFFENSE	DESCRIPTION OF OFFENSE	SANCTION POLICY
1st	WIC Checks	Redeeming WIC checks before or after valid use dates.	Issue warning letter and counsel client on proper WIC check use, emphasizing prevention of the error.
2nd		“	Place client on monthly WIC check pickup.
3rd		“	Two-month (2) termination (suspension).
1st	WIC Checks	Failing to sign and date WIC checks at the store.	Issue warning letter and counsel client on proper WIC check use, emphasizing prevention of the error.
2nd		“	Place client on monthly WIC check pickup.
3rd		“	Two-month (2) termination (suspension).
1st	WIC Foods	Returning WIC food for cash or non-WIC foods.	2-month termination (suspension).
1st	WIC Foods	Selling, trading or giving away WIC foods or formula.	2-month termination (suspension)
1st		Attempting to redeem or redeeming WIC checks for unauthorized non-food items (i.e., diapers, wine, cigarettes) or unauthorized quantities of WIC foods.	Issue warning letter and counsel client on proper WIC check use, emphasizing prevention of the error.
2nd			Place client on monthly WIC check pickup.
3rd			Two-month termination (suspension).

“The State agency may decide not to impose a mandatory disqualification if, within 30 days of receipt of the letter demanding repayment, full restitution is made or a repayment schedule is agreed on, or, in the case of a participant who is an infant, child or under 18, the State or local agency approves the designation of a proxy.” [CFR §246.12(u)(2)(ii)]

“The State agency may permit a participant to reapply for the Program before the end of a mandatory disqualification period if full restitution is made or a repayment schedule is agreed upon or, in the case of a participant who is an infant, child, or under age 18, the State or local agency approves the designation of a proxy.” [CFR §246.12(u)(2)(iii)]

*When termination occurs because of dual participation resulting from fraudulent participation, the Local Agency shall immediately notify the State WIC Office and send the participant a termination letter.

The Local Agency or Clinic through the State WIC Office, when appropriate, shall refer clients who violate program requirements to Federal, State, or local authorities for prosecution under applicable statutes.